

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1128 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No.

GUJ STATE CO-OPERATIVE LAND DEVELOPMENT BANK LTD.AHMEDABAD

Versus

STATE OF GUJ

Appearance:

MR MG NAGARKAR for the Petitioners.

MR.K.P.RAVAL,ADDL.PUBLIC PROSECUTOR for Respondent

No. 1.

Respondents Nos.2 and 3 served.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 01/11/96

ORAL JUDGEMENT

The petitioners, by way of this petition, challenge the order 7-9-87 in Criminal Case No. 923/87 passed by the learned JMFC,Sankheda registering the complaint and issuing the summons against the petitioners.

The said complaint has been filed by the Government Labour Officer, Baroda for the alleged breach of section 29 of the Industrial Disputes Act. P.C.Modi, respondent No.3, who, at the relevant time, was serving with the petitioner Bank was dismissed from the services with effect from 13-12-1973, who raised an industrial dispute which was referred for adjudication to the Labour Court, Baroda which came to be registered as Reference (LCB) No.473 of 1977. It appears that a settlement was arrived at between the petitioner Bank and the respondent Union on 6-5-83 and the Tribunal passed the award dated 13-5-83 in terms of the said settlement.

It is the case of the petitioners that pursuant to the said settlement and award, respondent No.3 was reinstated in service and payment of the dues amounting to Rs.25,294.61 was made to him. It appears that respondent No.3 was not satisfied with the dues paid to him, inasmuch as, according to him, he was further entitled to claim Rs.15,710.13. He, therefore, filed an application being Recovery Application No.732 of 1983 and the Labour Court, Baroda, on 17-1-1987 directed the petitioner Bank to pay the amount as prayed for. It appears that the petitioners challenged the said order of the Labour Court by filing a writ petition being Special Civil Application No.909/87. This Court, by its order dated 12-3-1987 summarily dismissed the petition. It is the case of the petitioners that soon after the order was passed, respondent No.3 was paid Rs.15,710.13. In the meanwhile the said respondent gave a notice dated 22-7-83 to the petitioners making a grievance about the stoppage of increment at the Efficiency Bar and to sanction and release the annual increment payable to him under the consent award. It appears that a copy of the said notice was also given to the Government Labour Officer. The Government Labour Officer, after calling the parties, tried to reach a settlement between them. However, as he failed to do so, he filed the present complaint.

Having gone through the complaint, I am of the view that the complaint does not satisfy any of the ingredients of section 29 of the ID Act. Section 29 of the ID Act deals with penalty for breach of settlement or award. It is not in dispute that the complaint is filed for the breach of the award on the allegation that the petitioners have not sanctioned and released the annual increment payable to respondent No.3 under the award. On perusal of the award, it is clear that it is not provided in the consent terms. In any case, assuming that the respondent No.3 has made out a case, the same can be

construed as an interpretation of the award of the Court and it is always open to the parties to approach the Labour Court for clarification and/or interpretation thereof but the same cannot be construed as a breach of the award. Apart from that, Mr. Nagarkar, learned Advocate, appearing for the petitioners, submitted that with respect to the very dispute, in fact, the Labour Court has directed the petitioner Bank to frame necessary Rules and the Bank has, in fact, framed the Rules. This would go to suggest that when the alleged demand regarding the release of annual increment is made, there were in fact no Rules and the reference was also pending. Under the circumstances, the parties could not have agreed to release the annual increment in the consent terms. In view of this, I am of the view that the proceedings initiated against the petitioners by way of complaint are required to be quashed and set aside.

In the result, this petition is allowed. The proceedings initiated against the petitioners by way of Criminal Case No. 923 of 1987 pending in the Court of Judicial Magistrate, First Class, Sankheda are quashed and set aside. Rule is made absolute accordingly with no order as to costs. Interim relief stands vacated.

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